

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 2:</b> Administration of Child Welfare	<b>Effective Date:</b> July 1, 2014
	<b>Section 3:</b> Child Care Workers Assessment Review Process	<b>Version:</b> 6

<b>STATEMENTS OF PURPOSE</b>
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A Child Care Worker or Licensed Resource Parent is given the opportunity for Administrative Review prior to approval of an assessment decision to substantiate Child Abuse and/or Neglect (CA/N) that identifies the person as an alleged perpetrator of child abuse and/or neglect. This policy applies to child care workers and licensed resource parents with assessments approved after October 15, 2006, unless otherwise specifically stated.

This policy does not apply to CA/N Substantiated cases involving DCS employees. See separate policy [2.4 Assessment and Review of DCS Staff Alleged Perpetrators](#).

The Indiana Department of Child Services (DCS) defines “child care worker” per [465 IAC 3-1-5](#) as a person who is a child caregiver, or has or will have direct contact with children on a regular and continuing basis as an employee (including a person who is actively seeking employment), but not an owner and/or operator of:

1. Any agency that provides services to or for the benefit of children who are victims of CA/N;
2. Any of the following types of facilities:
  - a. Child care center,
  - b. Child care home (whether or not required to be licensed),
  - c. Child care ministry (whether or not licensed),
  - d. Residential group home,
  - e. Child caring institution,
  - f. School,
  - g. Juvenile detention center, or
  - h. Licensed child placing agency (LCPA).
3. Any other facility that provides residential care for children;
4. Any other agency that is a contracted service provider for DCS; or
5. A home that provides:
  - a. Child care; or
  - b. Services to, or for the benefit of, children who are victims of CA/N, for a child or children to whom the person is not related.

The process described herein applies regardless of whether or not the allegation includes actions taken within the scope of employment as a child care worker or as a licensed resource parent.

It is the responsibility of the alleged perpetrator to notify the assessing Family Case Manager (FCM) that he/she is a child care worker or licensed resource parent in the event that the allegations are related to the individual’s personal life.

DCS will allow the child care worker or licensed resource parent who is an alleged perpetrator to participate in a Child Care Worker Assessment Review (CCWAR), as an opportunity to present any information he or she feels could assist DCS in making an accurate decision. The CCWAR is an informational meeting only and no official recording (i.e., audio recording) will be made of the meeting.

The child care worker or licensed resource parent who is an alleged perpetrator has the right to have an attorney or other representative present at the CCWAR. The attorney or representative may assist the alleged perpetrator in presenting information at the meeting. However, witness testimony is prohibited.

DCS will require that the CCWAR be conducted by one of the following persons who was not involved in the assessment or the preparation of the assessment report, and does not have a conflict of interest:

1. The DCS Local Office Director (LOD) in the county responsible for the assessment;
2. The DCS Local Office Deputy Director in the county responsible for the assessment;
3. The DCS Local Office Division Manager (DM) in the county responsible for the assessment; or
4. The Regional Manager (RM) in the region responsible for the assessment.

**Note:** If the DCS LOD, DCS Local Office Deputy Director, DM or RM was the person who approved the initial [Assessment of Child Abuse or Neglect \(SF 113\)](#) determination, or was otherwise involved in the assessment, preparation of the report, or has a conflict of interest, he or she will not conduct the CCWAR.

The CCWAR will occur within **15 business days** from the date that the alleged perpetrator is notified of the proposed substantiation determination, in the [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect by a Child Care Worker/Licensed Resource Parent \(Chapter 2 Notification Tool - Section F\)](#), regardless of the attendance of the child care worker or licensed resource parent alleged perpetrator. DCS will proceed with the CCWAR, including the approval process, if the alleged perpetrator does not attend the CCWAR.

DCS will require that the CCWAR occur prior to the FCM Supervisor's approval of the assessment finding.

DCS will allow the child care worker or licensed resource parent who is an alleged perpetrator the opportunity to continue the CCWAR under limited circumstances. Those limited circumstances include:

1. Before the scheduled date for the CCWAR, if the DCS LOD, or other person authorized to hold the CCWAR receives a written request for a continuance from the child care worker or licensed resource parent who is an alleged perpetrator;
2. If the FCM Supervisor has determined that the requested continuance will not endanger the health or safety of a child, the DCS LOD, or other person authorized to hold the CCWAR can grant the request in writing, with a phone call or a face to face contact documented in the case management system, to the child care worker or licensed resource parent who is an alleged perpetrator (due to the short time frame):
  - a. The continuance must be contingent on the agreement of a child care worker or licensed resource parent who is an alleged perpetrator to allow DCS to notify the employer or licensing agency of the pending assessment, if warranted,

- b. The phone call or face to face contact must be followed by written notice to the child care worker or licensed resource parent who is an alleged perpetrator of the rescheduled date, time, and location of the continued CCWAR, and
  - c. Copies must be sent to the child care worker or licensed resource parent's attorney, if applicable.
3. The rescheduled CCWAR must be held within **15 calendar days** from the originally scheduled CCWAR; and
  4. The CCWAR may not be continued more than once.

DCS recognizes the right of the child care worker or licensed resource parent who is an alleged perpetrator to request an Administrative Appeal Hearing, if he or she disagrees with the assessment finding. See separate policy, [2.5 Administrative Appeal Hearings](#). DCS will notify the child care worker or licensed resource parent who is an alleged perpetrator in writing of the assessment finding and his/her appeal rights regardless of whether he or she participates in the CCWAR.

DCS may notify the child care worker's employer or prospective employer, if known, if the CCWAR results in an approved substantiated report. DCS will notify the employer within two (2) business days of the approval of substantiation, if the CCWAR reviewer concludes that the health or safety of a child will be potentially endangered if the child care worker has continuing unsupervised contact with children. DCS will send the [Notice to Employer of Assessment Decision by the Indiana Department of Child Services \(DCS\) \(Chapter 2 Notification Tool - Section I\)](#). See Practice Guidance or Forms and Tools for [Chapter 2 Notification Tool](#) link.

DCS reserves the right to contact the appropriate licensing unit and/or agency regarding an emergency closure at any time during the assessment process, if the immediate safety and/or well-being of the alleged victim or another child at the facility or home is in question.

#### **Administrative Reviews for Allegations Substantiated Prior to October 15, 2006**

For licensed resource parents who had CA/N allegations substantiated prior to October 15, 2006, the perpetrator will receive an automatic agency review of the decision to substantiate prior to the decision to deny or revoke the person's foster home license, if the denial or revocation is based on the substantiation.

For a child care worker who has CA/N allegations substantiated prior to October 15, 2006, upon submission of a written request, the perpetrator will receive a courtesy review. The courtesy review must be completed by a DCS LOD, DCS Local Office Deputy Director, DM or RM, who was not directly involved in the original assessment decision. The DCS LOD, DCS Local Office Deputy Director, DM or RM who conducts the review will decide whether to uphold or unsubstantiate each allegation classified as substantiated. The following situations will support a decision to uphold the substantiation:

1. The decision to substantiate is supported by a criminal conviction or court finding(s) that resulted in a Child in Need of Services (CHINS) adjudication based on the same facts and circumstances as the substantiation;
2. The perpetrator was provided notice and opportunity for administrative hearing by an Administrative Law Judge;
3. A courtesy review has already been conducted and the substantiation was upheld; or
4. The facts of the assessment are sufficient to uphold the substantiation.

The DCS LOD, DCS Local Office Deputy Director, DM or RM who conducted the review will insert the date of the review, along with the basis for the review conclusion into the case management system. The reviewer will send written notification of the review conclusion to the perpetrator using the [Chapter 2 Notification Tool](#) (Sections J and K) as a guide. Upon a decision to unsubstantiate allegations, the LOD, DCS Local Office Deputy Director, DM or RM who conducted the review will unsubmit the allegations in case management system. Following agency review of a substantiation that was approved prior to October 15, 2006, the perpetrator has no right to administrative appeal of the decision. The written notice sent to the perpetrator by the reviewer upholding the substantiation will be the final agency decision, subject to judicial review under [IC 4-21.5-5](#).

#### Code References

1. [IC 31-9-2-16.3 Child Care](#)
2. [IC 31-9-2-16.4 Child Caregiver](#)
3. [IC 31-9-2-31 \(b\)\(2\) Custodian](#)
4. [IC 31-9-2-133 Victim of child abuse or neglect](#)
5. [IC 31-33-26 Child Protection Index](#)
6. [IC 4-21.5-3 Adjudicative Proceedings](#)
7. [IC 4-21.5-5 Judicial Review](#)
8. [465 IAC 3-2-2\(m\) Administrative Reviews and Hearings](#)
9. [465 IAC 3-1-4 "Child Care Worker" defined](#)

### PROCEDURE

The Family Case Manager (FCM) will:

1. Complete the assessment in accordance with the DCS assessment policies found in [Chapter 4: Assessment](#);
2. Notify his/her Supervisor that the assessment involves a child care worker or licensed resource parent as defined in this policy; and
3. Complete a draft copy of the [Assessment of Alleged Child Abuse or Neglect \(SF 113\)](#). Ensure that the word "DRAFT" is stamped on every page or watermarked on the [Assessment of Alleged Child Abuse or Neglect \(SF 113\)](#).

The FCM Supervisor will:

1. Notify the DCS LOD, RM, DCS Local Office Deputy Director, or DM, as appropriate of the need for a CCWAR within one (1) business day of receiving the recommendation from the FCM; if the FCM's recommendation is to substantiate and the FCM Supervisor agrees;
2. Wait to approve the [Assessment of Alleged Child Abuse or Neglect \(SF 113\)](#) until the CCWAR is conducted and the CCWAR decision is received.

The DCS LOD or other person authorized to hold the CCWAR will:

1. Notify the child care worker or licensed resource parent alleged perpetrator of the intent to substantiate and the time, date and place for the CCWAR within three (3) business days of being notified by the FCM Supervisor, by sending the [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect by a Child Care Worker/Licensed Resource Parent \(Chapter 2 Notification Tool - Section F\)](#). Include a draft redacted copy of the [Assessment of Child Abuse or Neglect \(SF 113\)](#) with the notice. Refer to separate policy, [2.2 Requests for Administrative Review](#) for redaction procedure;

2. Hold a CCWAR within **15 business days** from the date that the [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect by a Child Care Worker/Licensed Resource Parent \(Chapter 2 Notification Tool-Section F\)](#) is sent;
3. Review the case file with input from the DCS Staff Attorney, including the child care worker or licensed resource parent's statement and any other documentation presented by the individual; and
4. Decide which of the following actions will be taken:
  - a. Substantiate one or more of the allegations,
  - b. Unsubstantiate one or more of the allegations, or
  - c. Return the assessment to DCS for further assessment and reconsideration of the report. Send the [Notice of Review Decision to Further Assess Allegations Against a Child Care Worker or Licensed Resource Parent \(Chapter 2 Notification Tool - Section G\)](#)
5. Notify the FCM Supervisor of the review decision;
6. Within five (5) business days of holding the CCWAR, notify the alleged child care worker or licensed resource parent perpetrator, using the [Notice of Right to Administrative Appeal of a Child Abuse or Neglect Determination\(SF 55148\)](#) or [Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(Chapter 2 Notification Tool - Section H\)](#), if unsubstantiated. Include a copy of the [Request an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation \(SF 54776\)](#) with the notice, as well as an approved redacted copy of the [Assessment of Child Abuse or Neglect \(SF 113\)](#), if the substantiation is approved; and
7. Assure that all remaining assessment tasks are completed in a timely manner as set out in [Chapter 4: Assessment](#).

The FCM Supervisor will, upon receipt of the decision from the DCS LOD or other person authorized to hold the CCWAR:

1. Approve the [Assessment of Child Abuse or Neglect \(SF 113\)](#) consistent with the decision by the person who conducted the review; or
2. Instruct the FCM to gather additional information or conduct additional interviews as requested by the DCS LOD or other person authorized to conduct the CCWAR and review the FCM's recommendation following further assessment and send [Notice of Intent to Substantiate Allegations of Child Abuse and/or Neglect by a Child Care Worker/Licensed Resource Parent \(Chapter 2 Notification Tool - Section F\)](#) or [Notice of DCS Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(Chapter 2 Notification Tool - Section H\)](#) as appropriate; and
3. Assure that the child care worker's employer and/or the appropriate licensing unit or agency are notified within two (2) business days of substantiation using [Notice of Assessment Decision by Indiana Department of Child Services \(DCS\) \(Chapter 2 Notification Tool - Section I\)](#) if applicable.

If the child care worker or licensed resource parent who is a perpetrator chooses to appeal a decision to substantiate, see separate policy, [2.5 Administrative Appeal Hearings](#).

## PRACTICE GUIDANCE

The [Chapter 2 Notification Tool](#) **will be used to send the following Notices:**

1. [Notice of Assessment Outcome and Right to Request Administrative Review \(Section A\)](#);



2. [Notice of Administrative Review Decision to Unsubstantiate Allegations of Child Abuse or Neglect \(Section B\)](#);
3. [Notice of Administrative Review Decision Report Returned for Further Assessment \(Section C\)](#);
4. [Notice of Administrative Decision after Further Assessment \(Section D\)](#);
5. [Notice of Denial of Administrative Review \(Section E\)](#);
6. [Notice of Intent to Substantiate Allegations of Child Abuse or Neglect by a Child Care Worker or Licensed Resource Parent \(Section F\)](#);
7. [Notice of Administrative Review Decision to Further Assess Allegations against a Child Care Worker or Licensed Resource Parent \(Section G\)](#);
8. [Notice of DCS Decision to Unsubstantiate Allegation of Child Abuse or Neglect \(Section H\)](#);
9. [Notice to Employer of a Report of Child Abuse or Neglect Assessment Decision \(Section I\)](#);
10. [Notice of Child Care Worker \(CCW\) Assessment Review Decision for an Assessment Closed Prior to October 15, 2006 \(Section J\)](#);
11. [Notice of an Administrative Review Decision for an Assessment Closed Prior to October 15, 2006 \(Section K\)](#);
12. [Notice of Assessment Outcome for a DCS Employee \(Section L\)](#); and
13. [Notice of Deadline to Reactive Administrative Review or Appeal Request \(Section M\)](#)

#### **Instructions for developing a Notice using the [Chapter 2 Notification Tool](#)**

The [Chapter 2 Notification Tool](#) should be used by DCS FCMs authorized to notify a perpetrator or an employer in a case involving a DCS employee or CCW regarding an assessment conclusion by DCS. The DCS FCM should insert language from the appropriate section and place it on DCS local office letterhead. The Notice should be signed by the DC FCM and sent by mail or hand delivered with proper attachments within the allotted timeframe.

#### **Placing Notices and Letters in the file**

A copy of the Notice should be sent back to the DCS local office where the assessment was completed and placed in the DCS assessment file. Any letters or Notices received from the alleged perpetrator regarding the assessment should also be placed in the assessment file.

#### **FORMS AND TOOLS**

1. [Assessment of Alleged Child Abuse or Neglect \(SF113\)](#) – Available in the case management system
2. [Request an Administrative Appeal Hearing for Child Abuse or Neglect Substantiation\(SF54776\)](#) – Available in the case management system
3. [Chapter 2 Notification Tool](#)

#### **RELATED INFORMATION**

N/A